

Remarks/Arguments:

Introduction

Claim 1 has been amended to describe the medical protection sheeting as comprising, *inter alia*, a plain weave of low friction nylon warp and low friction nylon weft yarns. Support for this amendment may be found in the Specification at page 2, lines 26-27 (“nylon warp yarn...nylon weft yarn”); page 3, line 15 (“plain woven nylon fabric”); and page 4, lines 9-22 (discussing friction coefficients). Claim 1 has also been amended to describe the yarns as having, *inter alia*, a linear density between 1000 and 40 decitex. Support for this amendment may be found, for example, in previously presented claim 4.

Claims 2, 6, 7 and 8 have been amended for antecedent basis following the amendments made to claim 1. Claims 4, 12 and 35 have been canceled following the amendments made to claim 1. Claims 5, 6, 14 and 15 have been amended for antecedent basis following the cancellation of claim 4.

Claim 16 has been amended to describe the medical protection sheeting similar to those amendments made in claim 1. Claims 18 and 21 have been canceled.

Claims 26, 27, 33, 36, 38 and 39 have been amended to describe the fabric as being, *inter alia*, a plain woven fabric. Support for these amendments may be found in the Specification as described above. Claims 26, 33 and 39 have also been amended to describe, *inter alia*, reducing damage to a patient when the sheeting or fabric and the patient is moved relative to one and the other. Support for these amendments may be found in the Specification at, for example, the paragraph beginning at page 2, line 4.

Claims 2, 20, 31 and 33 have been amended to describe the “linen” as being “linen fabric”. Support for these amendments may be found in the Specification at page 3, lined 28-31 (describing T1 and T2 as fabrics); and in Table 1 at page 4 (listing certain T1 and T2 fabrics as “linen”).

Application No.: 10/561,752
Amendment and Response dated October 14, 2011
Reply to Office Action of May 18, 2011
Docket No.: 2163-2 PCT/US/RCE
Page 10

Claims 26, 33, 38 and 39 have been amended to describe the relationship between coefficients of static friction (μ_s) and dynamic friction (μ_d) in accordance with the Specification. (see, e.g., Specification, page 7, lines 18-19 (“ μ_s should be no more that 20% greater than μ_d ...”))

Following the amendments presented herein, claims 1, 2, 5-9, 14-17, 19, 20, 22, 26-34 and 36-39 are pending with claims 1, 16, 26, 27, 33, 36, 38 and 39 being independent claims.

No new matter is introduced with these claim amendments. Entry of the claims amendments is respectfully requested.

“Declaration” and “Response to Arguments” Portions of the Office Action

Attorney for the Applicant does not directly below specifically address the comments and/or assertions made by the Examiner in paragraphs 2-8 and 39-48 of the Office Action. Many of these comments and/or assertions are addressed in the Section 101, 102, 103 and/or 112 Rejections below. Nevertheless, Applicant specifically preserves the right to traverse any or all matters discussed in these paragraphs in any future Communication to the Patent Office.

Section 1.131 Declaration

Filed concurrently herewith is a Declaration Of Prior Invention In The United States To Overcome Cited Prior Art Under 37 C.F.R. §1.131 by Anthony Bruce Pike (hereinafter “Section 1.131 Declaration”). The Section 1.131 Declaration establishes a date of reduction to practice prior to the alleged effective date of the DuPont Reference (i.e. Airbag Fiber Offerings), i.e. February 21, 2003, and/or conception of the invention prior to the effective date of the DuPont Reference, i.e. February 21, 2003, coupled with due diligence to subsequent reduction to practice of the complete invention or to the filing of the GB 0314659.4 patent application.

The Section 1.131 Declaration also establishes a date of reduction to practice prior to the effective date of U.S. Patent Application Publication No. 2006/0252322 to DeBenedictis et al., i.e. May 15, 2003, and/or conception of the invention prior to the effective date of U.S. Patent

Application No.: 10/561,752
Amendment and Response dated October 14, 2011
Reply to Office Action of May 18, 2011
Docket No.: 2163-2 PCT/US/RCE
Page 11

Application Publication No. 2006/0252322 to DeBenedictis et al., i.e. May 15, 2003, coupled with due diligence to subsequent reduction to practice of the complete invention or to the filing of the GB 0314659.4 patent application.

Consideration and acceptance of this Section 1.131 Declaration is respectfully requested.

Section 112 Rejections

A. In paragraph 11, claims 26 and 33 (both independent claims) were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Applicant respectfully traverses.

Claims 26 and 33 have been amended as suggested by the Examiner. Reconsideration and withdrawal of the Section 112 rejections re respectfully requested.

B. In paragraphs 12-17, claims 19, 22, 26, 29, 30, 32 and 33 (with claims 26 and 33 being independent claims) were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite or depending from a rejected base claim. Applicant respectfully traverses.

It is respectfully submitted that with the amendments presented herein, these Section 112 rejections are moot. Reconsideration and withdrawal of these Section 112 rejections are respectfully requested.

Section 101 Rejections

A. In paragraph 19, claims 26, 33 and 39 (with claims 26, 33 and 39 being independent claims) were rejected under 35 U.S.C. §101 because allegedly the claimed invention is directed to non-statutory subject matter. Applicant respectfully traverses.

It is respectfully submitted that the Supreme Court decision of June 28, 2010 on the Bilski case is the controlling law as opposed to the Federal Circuit decision relied upon by the

Examiner. Thus, the Examiner wrongly asserts that the method claims “must pass the ‘machine-or-transformation test’ in order to be eligible for patent protection under 35 U.S.C. 101”.

Nevertheless, amended claims 26, 33 and 39 read, as follows:

26. A method of reducing risk of damage to skin of patients in areas where the skin is damaged or where skin is subject to pressure, the method comprising the steps of:

providing a medical protection sheeting fabricated from a plain woven material having a low coefficient of friction that is less than 0.4 and having a coefficient of static friction no more than twenty percent greater than ~~of~~ its coefficient of dynamic friction, the medical protection sheeting further provided to comprise yarns having a linear density between 1000 and 40 decitex and said sheeting having a weight between 200 and 50 gm/m²; and

covering a patient's skin with said medical protection sheeting to reduce the risk of damage to the skin of a patient when the medical protection sheeting is moved relative to the patient or when the patient moves or is moved relative to the medical protection sheeting.

33. (Currently amended): A method of reducing risk of damage to skin of patients in areas where the skin is damaged or where skin is subject to pressure, the method comprising the steps of:

providing a medical protection sheeting having first and second surfaces fabricated from a plain woven material having a coefficient of static friction and a coefficient of dynamic friction between said first and second surfaces and linen fabric of less than

0.4 wherein said coefficient of static friction is no more than 20 percent greater than said coefficient of dynamic friction, the medical protection sheeting further provided to be woven from a yarn having a linear density between 1000 and 40 decitex and said sheeting having a weight between 200 and 50 gm/m²; and
covering a patient's skin with a portion of one of said first and second surfaces of said medical protection sheeting to reduce the risk of damage to the skin of a patient when the medical protection sheeting is moved relative to the patient or when the patient moves or is moved relative to the medical protection sheeting.

39. (Currently amended): A method for limiting epidermal damage comprising:

providing a plain woven fabric having a coefficient of static friction no more than 20% greater than a coefficient of dynamic friction; wherein said woven fabric is a slide sheet or a covering; and

moving said fabric or moving a patient without causing epidermal damage to skin of the patient covered by said fabric.

Claim 26 clearly has a physical transformation, i.e., providing, *inter alia*, a medical protection sheeting and covering a patient's skin with the sheeting. Thus, the sheeting has a physical transformation from going from an uncovered position to a covered position. Likewise, the patient skin also has a physical transformation an uncovered position to a covered position. The same is true for claim 33. With respect to claim 39, the claimed limitation of the relative movement of the fabric and patient is also clearly a physical transformation of the fabric and/or patient.

Thus, it is respectfully submitted that the methods of claims 26, 33 and 39 are not “abstract ideas”, and are thus patent eligible under Section 101.

Reconsideration and withdrawal of the Section 101 rejections are respectfully requested.

Section 102 Rejections

A. In paragraph 20, claims 1, 4, 5, 14, 15, 35 and 38 (with claims 1 and 38 being independent claims) were rejected under 35 U.S.C. §102(f) because allegedly the Applicant did not invent the claimed subject matter. Applicant respectfully traverses.

The Examiner alleges that “Airbag Fiber Offerings” publication by DuPont (hereinafter “DuPont”) renders the subject matter of independent claims 1 and 38 as allegedly being unpatentable under Section 102(f). Firstly, while the DuPont reference notes a 2003 Copyright year, there is no affirmative proof that this reference was publically available on February 21, 2003 as alleged by the Examiner. While the undersigned Attorney acknowledges that such a date appears on the upper portion of this document, such a listing by itself does not render that reference as being publically available. Indeed, there are various scan target points, i.e., cross-hairs, present on this document. The February 21, 2003 date is clearly outside of the area denoted by the cross-hairs.

Such cross-hairs are common for preparation of documents where the content only within the cross-hairs ultimately become the published document. Even the Patent Office encourages the use of cross-hairs on drawings submitted by Applicants. (See, e.g., 37 C.F.R. §1.8(g)). Thus, the DuPont reference may well have been an internal draft document in some stage of preparation prior actual public release. Accordingly, the mere listing of the February 21, 2003 date in an outside margin defined by the cross-hairs on the document does not by itself prove that this document was publically available on February 21, 2003.

Moreover, the undersigned Attorney viewed the DuPont reference, i.e., the PDF document, directly from the internet. When viewing the PDF document properties (copy

attached) there is not indication that the DuPont reference was actually publically released on February 21, 2003. Indeed, the document properties of that PDF document merely indicate that the PDF document was created and modified on February 21, 2003. Thus, consistent with the above description regarding “cross-hairs”, the February 21, 2003 date on the DuPont reference appears to be an “internal” creation date of the document, as noted by the document properties, and not a public release date of the document as asserted by the examiner.

Thus, the Examiner has not presented a *prima facie* for non-patentability under Section 102(f) because, for example, on its face this DuPont reference does not specifically state public release on the alleged date of February 21, 2003.

Assuming *arguendo* that the DuPont reference did publish on February 21, 2003, such a publication on February 21, 2003 does not render the claims subject matter unpatentable under Section 102(f). Clearly, every table of the first page of the document references fibers and not fabrics formed from such fibers. Indeed, under the “Increasing Efficiency” section, the publication notes that “DuPont Textiles & Interiors pledges to work with our value chain partners to deliver the highest quality yarns in the industry and to reduce costs through customer-centric offerings such as: • Fiber/Fabric Process Optimization...” (emphasis added). Here, the publication is clearly offering fibers or yarns and not fabrics. The publication merely notes that DuPont would be willing to work with its customers on fabric processing, but does not state that fabrics from these fibers were available to the public on alleged date of February 21, 2003. Moreover, at page two, the publication notes that its “products” are “tailored for rapier, air and water jet looms”. Such looms or weaving machines process fibers to form woven articles. Thus, again this publication is clearly directed to fibers and not fabrics.

Such a reading of this DuPont document is consistent with the previously filed Rule 132 Declarations by Anthony Bruce Pike and John Barnes, which were submitted to the Patent Office on March 27, 2009. These Declarations state, in part, fabrics using certain DuPont fibers mentioned in the Specification and alleged by the Examiner to be contained in the DuPont

Application No.: 10/561,752
Amendment and Response dated October 14, 2011
Reply to Office Action of May 18, 2011
Docket No.: 2163-2 PCT/US/RCE
Page 16

publication were not publically available prior to the priority date of the subject application, i.e., June 24, 2003.

Assuming further *arguendo* that some how this publication could be construed to be an offer for a fabric, the publication still does not render the claimed subject matter unpatentable under Section 102(f). Claims 1 and 38 are directed to, *inter alia*, plain woven articles. The publication clearly fails to disclose plain woven articles. Further, it is not inherent that fabrics formed on rapier, air and water jet looms must be plain woven articles. It is respectfully submitted that such looms may produce a variety of fabrics of many different type of weave patterns. See, e.g., Sabit Adanur, WELLINGTON SEARS HANDBOOK OF INDUSTRIAL TEXTILES, 1995, p. 111-115 (copy enclosed). Indeed, these reference describes the “number of weave patters is endless”. (*Id.*, at 113)

As set forth at MPEP §2112 (IV), “[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.” *In re Rijckaert*, 9 F.3d 1531, 1534, 28 U.S.P.Q.2d 1955, 1957 (Fed. Cir. 1993). As also set forth in MPEP §2112 (IV):

To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’ (quoting *In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999)).

Thus, a disclosure of plain woven fabrics is not inherent from the DuPont reference.

Still furthermore, Applicant submits concurrently herewith the Section 1.131 Declaration which sets forth prior invention of the claimed subject matter prior to the alleged publication of the DuPont reference.

Accordingly, independent claims 1 and 38, and all claims dependent therefrom, are patentable over the DuPont reference. Reconsideration and withdrawal of the Section 102(f) rejections are respectfully requested.

B. In paragraph 22, claims 1, 4, 5, 14, 15 and 35 (with claim 1 being an independent claim) were rejected under 35 U.S.C. §102(a) as allegedly being anticipated by an “Airbag Fiber Offerings” publication by DuPont (hereinafter “DuPont”). Applicant respectfully traverses.

For the reasons described immediately above, such as but not limited to the lack of disclosure of a plain weave, it is respectfully submitted that the DuPont reference fails to present a *prima facie* case of anticipation under Section 102(a). The above arguments are not repeated here merely for the sake of brevity. Nevertheless, Applicant preserves the right to specifically present such arguments in any future communication to the Patent Office to traverse, if necessary, these Section 102(a) rejections.

In addition, the Examiner specifically alleges that the DuPont reference “discloses a woven material formed from nylon fibers 470T742¹ and 350T749” and that “fibers ... having a linear density between 40 to 1,000 decitex ... would be inherent”. While the exact nomenclature of “470T743” and “350T749” does not appear on the DuPont reference, fiber filaments having these beginning and ending numbers have a Dtex of 6.9, 3.3 and 2.5. Such listed Dtex values are on their face outside of the claimed range of 40 to 1,000 decitex, as set forth in independent claim 1.

To cure this deficiency, the Examiner attempts to use the principle of inherency in presenting a *prima facie* case of anticipation. However, as set forth at MPEP §2112 (IV), “[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.” *In re Rijckaert*, 9 F.3d 1531, 1534, 28 U.S.P.Q.2d 1955, 1957 (Fed. Cir. 1993). As also set forth in MPEP §2112 (IV):

¹ It is respectfully submitted that the Office Action should have mentioned “470T743” and not “471T742”

To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’ (quoting *In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999)).

Thus, disclosure of yarn linear density between 1,000 and 40 decitex is not inherent from the DuPont reference.

Still furthermore, Applicant submits concurrently herewith the Section 1.131 Declaration which sets forth prior invention of the claimed subject matter prior to the alleged publication of the DuPont reference.

Accordingly, independent claim 1, and all claims dependent therefrom, are patentable over the DuPont reference. Reconsideration and withdrawal of the Section 102(a) rejections are respectfully requested.

C. In paragraph 23, claims 1, 4, 34 and 38 (with claims 1 and 38 being independent claims) were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 3,849,813 to Neilson (hereinafter “Neilson”), as evidenced by Steven B. Warner, Fiber Science (hereinafter “Warner”). Applicant respectfully traverses.

Neilson discloses a drawsheet which is described as having a “central portion 10 comprising a substantially frictionless material”. (Neilson, column 1, lines 62-63). Neilson describes its frictionless material as being “satin, sateen, rayon satin, rayon sateen, acetate satin, etc.” (Neilson, column 2, lines 2-3).

With respect to independent claims 1 and 38, these claims are directed to an article having, *inter alia*, a plain weave. The satin and sateen weaves of Neilson are in direct contrast to the plain weave of the present invention. A plain weave pattern is one in which warp and weft

yarns are interlaced in a one-under-one-over pattern. (see e.g., Sabit Adanur, *supra*, p. 112 and Figure 4.24). A satin weave is a warp face weave having warp yarns floating over a multitude of weft yarns, and a sateen weave is a filling face weave where fill or weft yarns float over a multitude of warp yarns. (*Id.*, at 113 and Figure 4.29). For the convenience of the examiner additional definitions of plain, satin and sateen weaves are reproduced below, as follows:

Plain Weave - A basic weave, utilizing a simple alternate interlacing of warp and filling yarns. Each filling yarn passes successfully over and under each warp yarn, alternating each row. Any type of yarn made from any type of fiber can be manufactured into a plain weave fabric. (<http://www.fabriclink.com/Dictionaries/Textile.cfm#P>)

Satin Weave - A basic weave, characterized by long floats of yarn on the face of the fabric. The yarns are interlaced in such a manner that there is no definite, visible pattern of interlacing and, in this manner, a smooth and somewhat shiny surface effect is achieved. The shiny surface effect is further increased through the use of high luster filament fibers in yarns which also have a low amount of twist. A true satin weave fabric always has the warp yarns floating over filling yarns. The name satin originated in Zaytun, China. Satin cloths were originally of silk and simulations are now made from acetate, rayon, and some of the other man-made fibers. (<http://www.fabriclink.com/Dictionaries/Textile.cfm#S>)

Sateen Weave - A variation of the satin weave, produced by floating fill yarns over warp yarns. The cloth is made with a 5-end or an 8- shaft satin weave in warp-face or filling-face effects. (<http://www.fabriclink.com/Dictionaries/Textile.cfm#S>)

Thus, Neilson fails to disclose, *inter alia*, drawsheets having “substantially frictionless materials” of a plain weave. Indeed, Neilson by its specific use of satin and sateen weaves teaches away from the plain weaves of the present invention as set forth in independent claims 1 and 38.

Further, the Examiner’s reliance of Table 14.2 of Warner is not totally accurate. This table is clearly directed to “fiber-on-fiber” coefficients of friction and not coefficients of friction for fabrics, including plain weaves. Therefore, Warner fails to disclose any coefficients of

friction for plain woven fabrics. Accordingly, Warner cannot form a basis for a *prima facie* case of anticipation.

Further, one of ordinary in the art would not be motivated to arrive at the present invention from the combined teachings of Neilson and Warner. Neilson fails to teach or suggest the use of nylon fibers. Neilson, as acknowledged by the Examiner, is directed to the use of rayon fibers. Warner, however, teaches that fiber-on-fiber coefficients of friction of nylon (0.47 static & 0.40 kinetic) are greater than those for rayon (0.35 static & 0.26 kinetic)! Further, Warner even teaches that the fiber (normal) coefficient of friction of cotton (0.22) is lower than the coefficient of friction for nylon (0.47). Thus, Warner teaches away from the present invention where nylon yarns are claimed. Further, assuming *arguendo* that the fiber-to-fiber coefficients of friction of Warner may some how be construed as fabric coefficients of friction, as claimed, Warner teaches that such coefficients of friction for nylon are outside of the claimed range of dependent claim 2. The Examiner fails to address such deficiencies of Warner.

Further, Applicant disagrees with the assertion that the term "linen" may be construed as broadly defined by the Examiner to include articles made from other materials, for example, cotton, as allegedly supported by the online American Heritage Dictionary. One of ordinary skill in the art of textile fabrics would readily appreciate that linen specifically refers to yarn or fabrics made from the flax plant, as follows:

Linen - A fabric made from linen fibers obtained from inside the woody stem of the flax plant. The term, linen, cannot be used except for natural fiber flax. The fiber length ranges from a few inches to one yard, with no fuzziness, does not soil quickly, and has a natural luster and stiffness. Linen fibers are much stronger and more lustrous than cotton. Linen fabrics are very cool and absorbent, but wrinkle very easily, unless blended with manufactured fibers. Linen is one of the oldest textile fibers. (<http://www.fabriclink.com/Dictionaries/Textile.cfm#L>) (emphasis added)

Further, U.S. Regulations specifically require and maintain the distinction between linen and non-linen fibers, such as cotton, as follows:

Sec. 303.6 Generic names of fibers to be used.

(a) Except where another name is permitted under the Act and regulations, the respective generic names of all fibers present in the amount of 5 per centum or more of the total fiber weight of the textile fiber product shall be used when naming fibers in the required information; as for example: "cotton," "rayon," "silk," "linen," "nylon," etc. (16 C.F.R. §303.6) (emphasis added)

Thus, the Examiner's use of Warner and the online American Heritage Dictionary cannot provide a *prima facie* case of anticipation with Neilson. To establish a *prima facie* case of anticipation the result must necessarily follow from the evidence, like for example the principle of inherency. Clearly, these secondary evidentiary references do not rise to the level for presenting a *prima facie* case of anticipation because of the above-noted deficiencies in these evidentiary references.

Accordingly, independent claims 1 and 38 are patentably distinct over Neilson and the applied evidentiary references. Reconsideration and withdrawal of the Section 102(b) rejections of independent claims 1 and 38, and all claims dependent therefrom, are respectfully requested.

D. In paragraph 24, claims 1, 2, 34 and 38 (with claims 1 and 38 being independent claims) were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 5,329,655 to Garner (hereinafter "Garner"), as evidenced by Warner. Applicant respectfully traverses.

Garner is directed to a hospital sheet. The central portion of the sheet is described as having "less frictional drag than the opposing end portions and the top surface". (Garner, column 4, lines 15-17). The central portion of Garner is described as being a "slick fabric" of 100% polyester, satin or rayon. (Garner, column 4, lines 18-21).

Thus, Garner fails to disclose, *inter alia*, a plain woven article as set forth in independent claims 1 and 38. Further, Garner fails to disclose a plain woven article of nylon yarns as set forth in independent claim 1. Still further, Garner discloses that its low friction surface should be disposed away from the patient, as follows:

The sheet, including the top surface 12, is made of a material suitable for bed covering such as cotton material or synthetic material such as polyester. This material offers substantial frictional drag... low frictional material is selected for a central portion 15 which is sewed, bonded or otherwise attached to the bottom surface of the sheet body. (Garner, column 3, lines 56, to column 4, line 1) (emphasis added)

Thus, Garner fails to disclose, *inter alia*, “an external patient-contacting surface” having the plain weave of the present invention. The mere fact that the bottom, low frictional section of Garner may contact a patient is not sufficient for a *prima facie* case on anticipation because such a possibility is not inherent from Garner.

Furthermore, the evidentiary references of Warner and the online American Heritage Dictionary fail to cure the deficiencies of Garner. These above-described deficiencies are not repeated here for the sake of brevity. Nevertheless, Applicant preserves the right to specifically present such arguments in any future communication to the Patent Office.

Moreover, Garner describes polyester as being both high friction and low friction! (See e.g., Garner, column 3, lines 58-59 (“synthetic fiber such as polyester ... offers substantial frictional drag...”); and column 4, lines 18-19 (“slick fabric such as 100% polyester....”). Thus, Garner’s use of a “slick fabric” cannot by itself be apparently directed to just polyester yarns. Garner, however, offers no further disclosure on this matter. Since, as evidenced by Warner, polyester fiber appears to be a high friction fiber, it is respectfully submitted that Garner is deficient in its description of fiber details to such a degree that it cannot form a basis for a *prima facie* case of anticipation.

Accordingly, independent claims 1 and 38 are patentably distinct over Garner and the applied evidentiary references. Reconsideration and withdrawal of the Section 102(b) rejections of independent claims 1 and 38, and all claims dependent therefrom, are respectfully requested.

E. In paragraph 27, claims 1 and 34-37 (with claims 1 and 36 being independent claims) were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 4,051,565 to Berge (hereinafter “Berge”). Applicant respectfully traverses.

Berge is directed to a tubular mat. The outer layer of Berge is described as being “productive of relatively high frictional interengagement with the object or patient to be moved”. (Berge, column 3, lines 22-24). The interior of the mat includes a “material having a generally low coefficient of friction surface”. (Berge, column 3, lines 38-39). This is in direct contrast to “an external patient-contacting surface” having the low frictional plain weave of the present invention.

The assertion by the Examiner that interior layer would be capable of contacting a patient because the mat ends are open does not form a basis for a *prima facie* case of anticipation. Such contact must be inherent under an anticipation rejection. It is respectfully submitted that the disclosure of Berge does not rise to the necessary degree of certainty under inherency principles to present a *prima facie* of anticipation.

Indeed, Berge specifically teaches away from the present invention by requiring a high frictional external surface.

Furthermore, Berge fails to disclose a plain weave, including a plain weave, including a low friction plain weave, as set forth in claims 1 and 36.

Thus, independent claims 1 and 36 are patentably distinct over Berge. Reconsideration and withdrawal of the Section 102(b) rejections of independent claims 1 and 36, and all claims dependent therefrom, are respectfully requested.

Section 103 Rejections

A. In paragraph 29, claims 6 and 7 (both dependent claims) were rejected under 35 U.S.C. §103(a) as allegedly being obvious over DuPont in view of U.S. Patent Application Publication No. 2006/0252322 to DeBenedictis et al. (hereinafter “DeBenedictis”). Applicant respectfully traverses.

The above described deficiencies of the DuPont reference apply here and are not repeated for the sake of brevity. Nevertheless, Applicant preserves the right to specifically present such arguments in any future communication to the Patent Office.

In particular, Applicant traverses this rejection because, *inter alia*, a publication of the DuPont reference allegedly on February 21, 2003 cannot be ascertained to a necessary degree of certainty.

Furthermore, Applicant submits concurrently herewith the Section 1.131 Declaration which sets forth prior invention of the claimed subject matter prior to the alleged publication of the DuPont reference and prior to the effective date of May 15, 2003 of DeBenedictis.

Accordingly, dependent claims 6 and 7 are patentably distinct over DuPont and DeBenedictis. Reconsideration and withdrawal of the Section 103 rejections are respectfully requested.

B. In paragraph 30, claims 2 and 12 (both dependent claims) were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Garner in view of DeBenedictis and in further view of U.S. Patent No. 6,863,977 to Ochi et al. (hereinafter “Ochi”). Applicant respectfully traverses.

The Examiner acknowledges that Garner and DeBenedictis fail “to teach that the material has a coefficient of static friction and a coefficient of dynamic friction between itself and linen of less than 0.4”.

Ochi, however, fails to cure the deficiencies of Garner and DeBenedictis, in particular with respect to its teachings of coefficients of friction.

Ochi is directed to a pile fabric. (Ochi, column 1, lines 8-12). One of ordinary skill in the art would readily appreciate that a pile fabric is not a plain woven fabric, as set forth below:

Pile Fabric - A fabric in which certain yarns project from a foundation texture and form a pile on the surface. Pile yarns may be cut or uncut in the fabric. Corduroy and velveteen are examples of cut filling pile fabrics.

(<http://www.fabriclink.com/dictionaries/textile.cfm#P>)

Pile Knit - A type of knit construction which utilizes a special yarn or a sliver that is interlooped into a standard knit base. This construction is used in the formation of imitation fur fabrics, in special liners for cold weather apparel such as jackets and coats, and in some floor coverings. While any basic knit stitch may be used for the base of pile knits, the most common is the jersey stitch. (<http://www.fabriclink.com/dictionaries/textile.cfm#P>)

Pile Weave - A type of decorative weave in which a pile is formed by additional warp or filling yarns interlaced in such a way that loops are formed on the surface or face of the fabric. The loops may be left uncut, or they may be cut to expose yarn ends and produce cut pile fabric.

(<http://www.fabriclink.com/dictionaries/textile.cfm#P>)

Furthermore, Ochi is directed to acrylic fibers and not nylon fibers. (Ochi, column 1, lines 8-12).

Whatever disclosure Ochi has about coefficients of friction is thus related to pile fabrics of acrylic fibers. (See also, Ochi, column 3, lines 7-46). Such a fabric construction is in direct contrast to the plain woven fabric of nylon fibers of the present invention.

Furthermore, Applicant submits concurrently herewith the Section 1.131 Declaration which sets forth prior invention of the claimed subject matter prior to the effective date of May 15, 2003 of DeBenedictis.

Thus, dependent claim 2 (claim 12 has been canceled) is patentably distinct over Garner, DeBenedictis and Ochi, individually or in combination. Reconsideration and withdrawal of the Section 103 rejection of claim 12 is respectfully requested.

C. In paragraph 31, claims 1, 8, 16 and 27 (with claims 1, 16 and 27 being independent claims) were rejected under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent No. 5,176,624 to Kuehnreich (hereinafter “Kuehnreich”) in view of U.S. Patent No. 5,778,565 to Holt et al. (hereinafter “Holt”) and in further view of Garner, as evidenced by Warner. Applicant respectfully traverses.

Kuehnreich is directed to a foot bandage, but no fabric details are provided. Holt is directed to an orthopaedic footwear, but no fabric details are provided.

As described above Garner fails to disclose, teach or suggest, *inter alia*, a plain woven article, including a plain woven article of nylon yarns. Further, as described above, Warner discloses fiber-to-fiber coefficients of friction and not coefficients of friction for plain woven fabrics. Moreover, the above described deficiencies of the online American Heritage Dictionary citation by the Examiner are also relevant. Full descriptions of these deficiencies are not repeated here for the sake of brevity. Nevertheless, Applicant preserves the right to specifically present such arguments in any future communication to the Patent Office.

Thus, Kuehnreich, Holt, Garner and Warner, individually or in combination fail to teach or suggest the invention as presently defined by independent claims 1, 16 and 27 because these references fail to teach or suggest, *inter alia*, a plain weave of nylon yarns as set forth in independent claims 1 and 16; a plain weave of yarns as set forth in independent claim 27; and the claimed coefficients of friction for such plain woven articles.

Accordingly, reconsideration and withdrawal of the Section 103 rejections of independent claims 1, 16 and 27, and all claims dependent therefrom, are respectfully requested.

D. In paragraph 35, claims 18, 19, 29 and 30 (all dependent claims) were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Kuehnreich in view of Holt, in view of Garner and in further view of U.S. Patent No. 6,588,237 to Cole et al. (hereinafter “Cole”). Applicant respectfully traverses.

The deficiencies of Kuehnreich, Holt and Garner are discussed above. These deficiencies are not repeated here for the sake of brevity. Nevertheless, Applicant preserves the right to specifically present such arguments in any future communication to the Patent Office.

The Examiner cites Cole for allegedly “disclosing a polyester fabric woven from a yarn having a linear density between 40 and 1,000 decitex”. Applicant respectfully traverses. Cole is directed to a knitted fabric and not a woven fabric. (Cole, column 2, line 14, Figs. 1-3). The knitted fabric includes polyamide or polyester ground yarn and heat-fusible elastomeric yarn or a fusible non-elastomeric yarn of, for example, polyamide or polypropylene. Thus, Cole also fails to disclose the use of nylon yarns.

Thus, Cole fails to cure the deficiencies of Kuehnreich, Holt and Garner. Accordingly, claims 19, 29 and 30 (claim 18 has been canceled) are patentably distinct over of Kuehnreich, Holt, Garner and Cole. Reconsideration and withdrawal of the Section 103 rejections are respectfully requested.

E. In paragraph 36, claims 22 and 32 (all dependent claims) were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Kuehnreich in view of Holt and Garner, in further view of Cole, and in further view DeBenedictis. Applicant respectfully traverses.

The deficiencies of Kuehnreich, Holt, Garner and Cole are discussed above. These deficiencies are not repeated here for the sake of brevity. Nevertheless, Applicant preserves the right to specifically present such arguments in any future communication to the Patent Office.

Applicant submits concurrently herewith the Section 1.131 Declaration which sets forth prior invention of the claimed subject matter prior to the effective date of May 15, 2003 of DeBenedictis.

Therefore claims 22 and 32 are patentably distinct over Kuehnreich, Holt, Garner, Cole and DeBenedictis. Reconsideration and withdrawal of the Section 103 rejections of claims 22 and 32 are respectfully requested.

E. In paragraph 38, claims 26 and 33 (both independent claims) were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Neilson in view of DeBenedictis and in further view of Ochi. Applicant respectfully traverses.

As described above, Neilson is directed to satin and sateen weaves, and Ochi is directed to pile fabrics. Neither reference discloses, teaches or suggests a plain woven. A full discussion of these deficiencies is not repeated here for the sake of brevity. Nevertheless, Applicant preserves the right to specifically present such arguments in any future communication to the Patent Office.

Applicant submits concurrently herewith the Section 1.131 Declaration which sets forth prior invention of the claimed subject matter prior to the effective date of May 15, 2003 of DeBenedictis.

Therefore claims 26 and 33 are patentably distinct over Neilson, DeBenedictis and Ochi. Reconsideration and withdrawal of the Section 103 rejections of claims 26 and 33 are respectfully requested.

Additional Evidence of Patentability

During the interview several documents related to objective evidence relevant to the issue of obviousness were presented and discussed. The documents included:

- a. A testimonial by A. Booth, a registered nurse;

b. A letter dated May 9, 2008 from Frances Edmunds, Director of Nursing, Alexandra House Care Services Ltd;

c. A letter dated October 9, 2010 from Peter Sonksen MD FRCP FFSEM (UK), Emeritus Professor of Endocrinology St. Thomas' Hospital and King's College, London;

d. Summary of the Isle of Wright Study, dated June 2010;

e. Syvive Hampton et al, "ParafriactaTM material: can it reduce the potential for pressure damage?", Journal of Community Nursing, April 2009, volume 23, issue 4;

f. G. Smith et al, "Clinical and cost effectiveness evaluation of low friction and shear garments", Journal of Wound Care, Vol 19, No 12, December 2010;

g. Parafriacta – Products, <http://medical.invista.com/en/products/index.html>, printed 9/9/2011;

h. Fabric Technologies (showing fabric SEM's of ParafriactaTM and Polycotton), http://medical.invista.com/en/main/fabric_technologies.html, printed 9/9/2011;

i. Jackie Stephen-Haynes et al., Parafriacta article 2011 PREPRINT, entitled "Clinical outcomes of a low friction and shear garment in the care home setting" (internal document – not yet published).

It is respectfully submitted that these documents are related to the "secondary considerations" or "Graham factors" of commercial success, long-felt but unsolved needs, failure of others and/or unexpected results. The documents show commercial success, including medical trials showing vastly improved and unexpected results, of the present invention. These documents are being made of record for the convenience of the Examiner. Consideration of these documents by the Examiner is respectfully requested.

Summary

Therefore, Applicants respectfully submit that independent claims 1, 16, 26, 27, 33, 36, 38 and 39, and all claims dependent therefrom, are patentably distinct. This application is believed to be in condition for allowance. Favorable action thereon is therefore respectfully solicited.

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number given below.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Respectfully submitted,

/John S. SOPKO, Reg. # 41,321/
John S. Sopko
Registration No.: 41,321
Attorney for Applicants

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700